IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.M.JOSEPH

TUESDAY, THE 20TH NOVEMBER 2007 / 29TH KARTHIKA 1929

WA.No. 2739 of 2007

AGAINST THE JUDGEMENT IN WPC.32123/2007 Dated 31/10/2007

.....

APPELLANT/PETITIONER:

AARTI ENGINEERING COMPANY,
REGD. OFFICE, TAHSIL POLICE STATION ROAD,
GANDHIBAGH, NAGPUR-440 002,
REPRESENTED BY ITS MANAGER (MARKETING),
JAIN KISHORE SAWALKAR.

BY ADV. SRI.R.RAMADAS

RESPONDENTS/ RESPONDENTS:

---

1. THE DEPUTY COMMISSIONER (APPEALS),
   COMMERCIAL TAXES,
   KOZHIKODE.

2. THE COMMERCIAL TAX OFFICER, WC & LT,
   KOZHIKODE.

BY SPECIAL GOVERNMENT PLEADER SRI.VINOD CHANDRAN.

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 20/11/2007,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L.DATTU, C.J. & K.M.JOSEPH, J.

W.A.No.2739 of 2007

Dated, this the 20th day of November, 2007

JUDGMENT

H.L.Dattu, C.J.

Aggrieved by the orders passed by the assessing authority for the assessment years 2001-2002 to 2004-2005, the assessee was before the first appellate authority. Along with the appeals, the assessee has also filed applications for grant of interim order, staying the demand notices issued by the assessing authority pursuant to the orders of assessment for the assessment years 2001-2002 to 2004-2005. The first appellate authority, after considering the applications so filed, has directed the assessee to deposit 50 percent of the quantified tax liability. Aggrieved by the said order passed by the first appellate authority, the assessee is before this Court in W.P.(C) No.32123 of 2007. The learned Single Judge, by his order dated 31st October, 2007 has rejected the writ petition.

(2). Aggrieved by the said order, the assessee is before us, in this appeal.

(3). First and foremost, before the tax liability was quantified, the assessing authority had issued proposal to the assessee. For the reasons best known, the assessee did not appear before the assessing authority. Therefore, the proposal so made has been confirmed by the assessing authority. Whether the quantification of tax liability is proper or improper is a matter to be looked

into for the first time, by the first appellate authority. Even before that can be done, the appellate authority, in our opinion, has rightly directed the assessee to deposit 50 percent of the quantified tax liability. In fiscal matters, normally, this Court would not interfere with the interim orders passed by the authorities under the Act except in exceptional cases. Those exceptions are neither pleaded nor argued by the petitioner. Therefore, the appeal requires to be rejected and it is rejected.

Ordered accordingly.

(**H.L.DATTU)**
CHIEF JUSTICE

(K.M.JOSEPH)
JUDGE

MS/DK.